

NOVEMBER 30, 2007

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

07 C 6767

Virgil Smith
963 Cottage Pl.
Joliet, IL 60436

Plaintiff,

v.

NCA Financial Services, Inc.
c/o J. Pugh, Registered Agent
1731 Howe Ave., #361
Sacramento, CA 95825

Defendant.

CASE NO.:

JUDGE:

**JUDGE ASPEN
MAGISTRATE JUDGE MASON**

**COMPLAINT FOR DAMAGES
UNDER THE FAIR DEBT
COLLECTION PRACTICES ACT
AND OTHER EQUITABLE RELIEF**

JURY DEMAND ENDORSED HEREIN

JURISDICTION AND VENUE

1. Jurisdiction is founded on 28 U.S.C. §1331 pursuant to the Fair Debt Collections Practices Act (FDCPA), 15 U.S.C. §1692. Venue is proper in this district because this is the judicial district where all of the events giving rise to the cause of action took place.

FACTS COMMON TO ALL COUNTS

2. The Plaintiff is a person who incurred a consumer debt primarily for personal, family or household purposes.
3. Defendant is a corporation doing business primarily as a consumer debt collector.
4. Defendant is a debt collector as defined by the FDCPA, 15 U.S.C. §1692a(6).
5. The Plaintiff is a "consumer" as defined by 15 U.S.C. §1692a(3).
6. The debt in question qualifies as a "debt" as defined by 15 U.S.C. §1692a(5).

7. Defendant is either the holder of the debt or was retained by the current holder to collect the debt.
8. All of Defendant's actions occurred within one year of the date of this Complaint.
9. On or around August 10, 2007, Defendant telephoned Plaintiff regarding the debt.
10. During this communication, Plaintiff informed Defendant that Plaintiff had retained an attorney to file bankruptcy and provided the law firm's contact information.
11. During this communication, Defendant refused to record Plaintiff's attorney's contact information, said that Defendant would not call Plaintiff's attorney, and continued Defendant's efforts to collect the debt.
12. During this communication, Defendant threatened to sue Plaintiff the following week if the debt was not paid.
13. Plaintiff is emotionally distraught and has been compelled to hire counsel to prosecute this action.
14. Defendant has damaged Plaintiff emotionally and mentally and has caused substantial anxiety and stress.
15. Defendant violated the FDCPA.

COUNT ONE

Violation of the Fair Debt Collections Practices Act

16. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
17. The Defendant violated 15 U.S.C. §1692f in that its actions were unfair and/or unconscionable means to collect a debt.

COUNT TWO

Violation of the Fair Debt Collections Practices Act

18. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

19. The Defendant violated 15 U.S.C. §1692e, generally, by having non-attorneys overtly state that they could control the decision to litigate and the timing and scope of the litigation, when in fact this would be an attorney decision.

COUNT THREE

Violation of the Fair Debt Collections Practices Act

20. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
21. The Defendant violated 15 U.S.C. §1692e in that it threatened legal action where such action was not contemplated, and stated for the sole purpose of terrifying the Plaintiff.

COUNT FOUR

Violation of the Fair Debt Collections Practices Act

22. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
23. The Defendant violated 15 U.S.C. §1692e by making misrepresentations during its conversations with Plaintiff.

COUNT FIVE

Violation of the Fair Debt Collections Practices Act

24. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
25. The Defendant violated 15 U.S.C. §1692c in that it communicated with Plaintiff in connection with the collection of the debt notwithstanding the fact that Plaintiff told Defendant that Plaintiff was represented by an attorney.

JURY DEMAND

26. Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

27. Plaintiff prays for the following relief:

- a. Judgment against Defendant for actual damages, statutory damages pursuant to 15 U.S.C. §1692k and costs, and reasonable attorney's fees pursuant to 15 U.S.C. §1692k.
- b. For such other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

Legal Helpers, P.C.

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